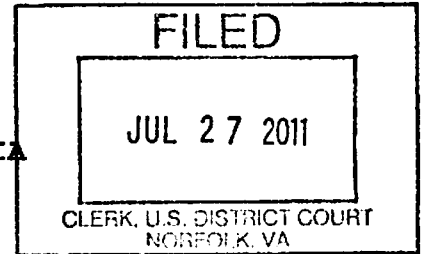


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



JOSHUA BARRETT SHAPIRO,

Petitioner,

v.

Case No.: 2:10cv543

KEN STOLLE, Sheriff, City of
Virginia Beach,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violations of federal rights pertaining to Petitioner's conviction in the Circuit Court of the City of Virginia Beach, Virginia, of one count of assault and battery and one count of disturbing the peace, as a result of which he was sentenced to serve a total of twenty-four (24) months imprisonment with the entire term suspended on condition of good behavior and no contact with the victim of the offense.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure, and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report

of the magistrate judge was filed on June 30, 2011, recommending that the petition be denied and dismissed. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the magistrate judge. The Court received no response from either party.

The Court, having reviewed the record, does hereby ADOPT AND APPROVE the findings and recommendations set forth in the report of the United States Magistrate Judge filed on June 30, 2011 (ECF No. 23), and it is, therefore, ORDERED that the petition be DENIED AND DISMISSED WITH PREJUDICE for the reasons stated in the report. Adopting the recommendations in the magistrate judge's report, it is ORDERED that Respondent's Motion to Dismiss, (ECF No. 11), be DENIED as MOOT¹ and Respondent's Motion to Dismiss First Amended Petition, (ECF No. 15), be GRANTED. It is further ORDERED that judgment be entered in favor of Respondent.

Petitioner may appeal from the judgment entered pursuant to this final order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from

¹ The Court granted Petitioner's unopposed Motion for Leave to File First Amended Petition. (ECF Nos. 14, 23.)

the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.


Mark S. Davis
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

July 27, 2011